

PROVIDING FOR CONSIDERATION OF THE BILL (H.R. 3021) TO DIRECT THE SECRETARY OF EDUCATION TO MAKE GRANTS AND LOW-INTEREST LOANS TO LOCAL EDUCATIONAL AGENCIES FOR THE CONSTRUCTION, MODERNIZATION, OR REPAIR OF PUBLIC KINDERGARTEN, ELEMENTARY, AND SECONDARY EDUCATIONAL FACILITIES, AND FOR OTHER PURPOSES

JUNE 3, 2008.—Referred to the House Calendar and ordered to be printed

Ms. SUTTON, from the Committee on Rules,
submitted the following

R E P O R T

[To accompany H. Res. 1234]

The Committee on Rules, having had under consideration House Resolution 1234, by a record vote of 6 to 2, report the same to the House with the recommendation that the resolution be adopted.

SUMMARY OF PROVISIONS OF THE RESOLUTION

The resolution provides for consideration of H.R. 3021, the 21st Century Green High-Performing Public School Facilities Act, under a structured rule. The rule provides one hour of general debate equally divided and controlled by the chairman and ranking minority member of the Committee on Education and Labor. The rule waives all points of order against consideration of the bill except clauses 9 and 10 of rule XXI. The rule provides that the amendment in the nature of a substitute recommended by the Committee on Education and Labor now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. The rule waives all points of order against the amendment in the nature of a substitute except for clause 10 of rule XXI. This waiver does not affect the point of order available under clause 9 of rule XXI (regarding earmark disclosure).

The rule makes in order only those amendments printed in this report. The amendments made in order may be offered only in the order printed in this report, may be offered only by a Member designated in this report, shall be considered as read, shall be debatable for the time specified in this report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for a division of the question in the House or in the Committee of the Whole. All

points of order against the amendments except for clauses 9 and 10 of rule XXI are waived. The rule provides one motion to recommit with or without instructions. The rule provides that, notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker.

EXPLANATION OF WAIVERS

Although the rule waives all points of order against consideration of the bill (except for clauses 9 and 10 of rule XXI) and waives all points of order against the amendment in the nature of a substitute (except clause 10 of rule XXI), the Committee is not aware of any points of order. The waivers of all points of order are prophylactic.

COMMITTEE VOTES

The results of each record vote on an amendment or motion to report, together with the names of those voting for and against, are printed below:

Rules Committee record vote No. 518

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Bishop, Rob (UT), #4, which would provide that charter schools be included in the bill.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 519

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. McKeon (CA), #5, which would require a local educational agency to declare that it is in compliance with the public school choice and supplemental educational services requirements of the Elementary and Secondary Education Act before receiving funding.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 520

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Kline (MN), #6, which would require a local educational agency to declare that it is in compli-

ance with the military recruiter requirements of the Elementary and Secondary Education Act before receiving funding.

Results: Defeated 2–5.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea.

Rules Committee record vote No. 521

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Dreier.

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Castle (DE), #3, which would require that the Title I program for low-income students be fully funded before providing states and school districts with school construction grants.

Results: Defeated 2–5.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea.

Rules Committee record vote No. 522

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Hastings (WA)/Hayes (NC), #12, which would provide preference for the grants provided by this bill to school districts that are heavily impacted by federal land ownership and qualify for the Impact Aid program.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 523

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Hastings (WA), #13, which would provide that none of the funds appropriated or made available under Title I of the bill shall be expended unless (1) the total amount appropriated to carry out sections 8002 and 8003 of the Elementary and Secondary Education Act of 1965 for the year is sufficient to provide the maximum amount for each local educational agency determined eligible under such sections; and (2) the total amount appropriated or otherwise made available to carry out sections 8007 and 8008 of the Elementary and Secondary Education Act of 1965 for the year exceeds by at least 2 percent of such amount for the prior fiscal year.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 524

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Shadegg (AZ), #9, which would replace the LEED green building rating system mandate with incentives for school-based projects that will increase energy efficiency by at least 5%, with priority given to those projects that decrease energy consumption the most.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 525

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Davis, David (TN), #7, which would require a local educational agency to declare that it is in compliance with the school prayer requirements of the Elementary and Secondary Education Act before receiving funding.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 526

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Hastings (WA).

Summary of motion: To make in order and provide appropriate waivers for an amendment by Rep. Flake (AZ), #11, which would prohibit funds appropriated under the bill from being used for Congressional earmarks as defined by clause 9(d) of rule XXI of the Rules of the House of Representatives.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 527

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Dreier.

Summary of motion: To report a modified open rule.

Results: Defeated 2–6.

Vote by Members: Hastings (FL)—Nay; Matsui—Nay; Welch—Nay; Arcuri—Nay; Sutton—Nay; Dreier—Yea; Hastings (WA)—Yea; Slaughter—Nay.

Rules Committee record vote No. 528

Date: June 3, 2008.

Measure: H.R. 3021.

Motion by: Mr. Hastings (FL).

Summary of motion: To report the rule.

Results: Adopted 6–2.

Vote by Members: Hastings (FL)—Yea; Matsui—Yea; Welch—Yea; Arcuri—Yea; Sutton—Yea; Dreier—Nay; Hastings (WA)—Nay; Slaughter—Yea.

SUMMARY OF AMENDMENTS MADE IN ORDER

1. Miller, George (CA): In addition to making various technical changes, the amendment clarifies or adds certain allowable uses of funds, clarifies the Act's green building requirements, and adds certain reporting requirements. (10 minutes)

2. Ehlers (MI): Would establish a moratorium on using federal funds to purchase carbon offsets with the funding authorized in the bill. (10 minutes)

3. Shea-Porter (NH)/Welch (VT)/Arcuri (NY)/Hodes (NH): Would allow funding authorized by the bill to be used for renewable energy generation and heating systems in schools. (30 minutes)

4. Davis, Tom (VA): Would allow for priority consideration to science and technology schools once the funds reach their local educational agencies. (10 minutes)

5. Stupak (MI)/Visclosky (IN): Would require a local educational agency to use American steel and iron for modernization, renovation, or repair projects at a public school facility. Includes waivers if iron and steel are not produced in the U.S. in sufficient and reasonably available quantities and if iron and steel produced in the U.S. will increase the cost of the overall project by more than 25 percent. (10 minutes)

6. Brady, Kevin (TX): Would include Texas in Title II of the bill. (10 minutes)

7. Matheson (UT): Provides that schools and local educational agencies receiving grants under this bill shall report, if they installed flooring, whether it was (1) low- or no-VOC (Volatile Organic Compounds) flooring, (2) made from sustainable materials, and (3) cost effective. (10 minutes)

8. Reichert (WA): Provides that local education agencies may use a grant for modernization, renovation, or repair of public school facilities to reduce class size. (10 minutes)

TEXT OF AMENDMENTS MADE IN ORDER UNDER THE RULE

1. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE GEORGE MILLER OF CALIFORNIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 5, after line 5, insert the following:

(9) The term “public school facilities” includes charter schools.

(10) The term “Green Globes” means the Green Building Initiative environmental design and rating system referred to as Green Globes.

Page 5, line 8, insert “**PUBLIC**” before “**SCHOOL**”.

Page 5, beginning on line 12, strike “kindergarten” and all that follows through “that are” and insert “school facilities, based on their need for such improvements, to be”.

Page 8, line 9, strike “may” and insert “shall”.

Page 8, line 11, insert “including extensive, intensive or semi-intensive green roofs,” after “roofs,”.

Page 8, line 14, before the semicolon insert “, including security doors.”

Page 8, strike lines 19 through 22, and insert the following:

(3) bringing public schools into compliance with fire, health, and safety codes, including professional installation of fire/life safety alarms, including modernizations, renovations, and repairs that ensure that schools are prepared for emergencies, such as improving building infrastructure to accommodate security measures;

Page 9, line 4, insert “or polychlorinated biphenyls” after “asbestos”.

Page 9, after line 9, insert the following:

(7) implementation of measures designed to reduce or eliminate human exposure to mold or mildew.

Page 9, line 10, strike “(7)” and insert “(8)”.

Page 9, after line 12, insert the following:

(9) modernization, renovation, or repair of science and engineering laboratory facilities, libraries, and career and technical education facilities, including those related to energy efficiency and renewable energy, and improvements to building infrastructure to accommodate bicycle and pedestrian access;

Page 9, line 13, strike “(8)” and insert “(10)”.

Page 9, line 20, strike “(9)” and insert “(11)”.

Page 9, line 21, insert “public” before “school”.

Page 9, line 22, strike “(8).” and insert “(10).”.

Page 10, beginning on line 6, strike “kindergarten” and all that follows through “that are” and insert “school facilities, based on their need for such improvements, to be”.

Page 10, beginning on line 9, strike “in order” and all that follows through “Rita” on line 10.

Page 11, line 16, strike “may use the grant for any” and insert “shall use the grant for one or more”.

Page 11, line 19, strike “kindergarten, elementary, and secondary”.

Page 12, beginning on line 9, strike “and repair” and all that follows through “educational” and insert “repair, and construction of public school”.

Page 12, after line 10, insert the following (and amend the table of contents accordingly):

SEC. 302A. PROHIBITION REGARDING STATE AID.

A State shall not take into consideration payments under this Act in determining the eligibility of any local educational agency in that State for State aid, or the amount of State aid, with respect to free public education of children.

Page 12, line 12, insert “(a) IN GENERAL.—” before “A local”.

Page 12, after line 19, insert the following:

(b) REDUCTION IN CASE OF FAILURE TO MEET.—

(1) IN GENERAL.—The State educational agency shall reduce the amount of a local educational agency's grant in any fiscal year in the exact proportion by which a local educational agency fails to meet the requirement of subsection (a) of this section by falling below 90 percent of both the combined fiscal effort

per student and aggregate expenditures (using the measure most favorable to the local agency).

(2) SPECIAL RULE.—No such lesser amount shall be used for computing the effort required under subsection (a) of this section for subsequent years.

(c) WAIVER.—The Secretary shall waive the requirements of this section if the Secretary determines that a waiver would be equitable due to—

(1) exceptional or uncontrollable circumstances, such as a natural disaster; or

(2) a precipitous decline in the financial resources of the local educational agency.

Page 12, line 23, strike “or repair” and insert “repair, or construction”.

Page 13, beginning on line 12, strike “or repairs” and insert “repairs, or construction”.

Page 13, line 13, insert “certified, verified, or consistent with any applicable provisions of” after “are”.

Page 13, strike lines 14 through 24 and insert the following:

(1) the LEED Green Building Rating System;

(2) Energy Star;

(3) the CHPS Criteria;

(4) Green Globes; or

(5) an equivalent program adopted by the State or another jurisdiction with authority over the local educational agency.

Page 14, line 13, strike “and repair,” and insert “repair, and construction,”.

Page 14, line 21, before the semicolon insert “, including the number of charter schools”

Page 14, after line 21, insert the following:

(2) the total amount of funds received by the local educational agency under this Act and the amount of such funds expended, including the amount expended for modernization, renovation, repair, or construction of charter schools;

Page 14, line 22, strike “(2)” and insert “(3)”.

Page 14, line 22, insert “public” before “schools”.

Page 15, line 3, strike “(3)” and insert “(4)”.

Page 15, line 3, insert “public” before “schools”.

Page 15, line 9, strike “(4)” and insert “(5)”.

Page 15, line 8, strike “and”.

Page 15, line 22, strike the period at the end and insert “; and”.

Page 15, after line 22, insert the following:

(6) the total number and amount of contracts awarded, and the number and amount of contracts awarded to local, small, minority, women, and veteran-owned businesses.

Page 16, beginning on line 13, strike “and repair” and insert “repair, and construction”.

Page 16, after line 25, insert the following (and amend the table of contents accordingly):

SEC. 309. SPECIAL RULES.

Notwithstanding any other provision of this Act, none of the funds authorized by this Act may be—

(1) used to employ workers in violation of section 274A of the Immigration and Nationality Act (8 U.S.C. 1324a); or

(2) distributed to a local educational agency that does not have a policy that requires a criminal background check on all employees of the agency.

Page 17, strike the title amendment and insert the following:

Amend the title so as to read: “A bill to direct the Secretary of Education to make grants to State educational agencies for the modernization, renovation, or repair of public school facilities, and for other purposes.”.

2. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE EHLERS OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 11, line 25, strike “or”.

Page 12, line 3, strike the period at the end and insert “; or”.

Page 12, after line 3, insert the following new paragraph:

(3) purchasing carbon offsets.

3. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE SHEA-PORTER OF NEW HAMPSHIRE, OR HER DESIGNEE, DEBATABLE FOR 30 MINUTES

Page 9, after line 12, insert the following:

(8) renewable energy generation and heating systems, including solar, photovoltaic, wind, geothermal, or biomass, including wood pellet, systems or components of such systems;

Page 9, line 13, strike “(8)” and insert “(9)”.

Page 9, line 20, strike “(9)” and insert “(10)”.

Page 9, line 22, strike “(8).” and insert “(9).”.

4. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE TOM DAVIS OF VIRGINIA, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 8, after line 6, insert the following:

(3) DISTRIBUTIONS BY LOCAL EDUCATIONAL AGENCIES.—A local educational agency receiving a grant under this title may give priority, in using the grant, to projects to be carried out in a public secondary school recognized as a Science and Technology High School or as a secondary school with a science and technology program.

5. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE STUPAK OF MICHIGAN, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 6, line 3, strike “308(a)” and insert “309(a)”.

Page 10, line 14, strike “308(b)” and insert “309(b)”.

Page 13, after line 2, insert the following (and redesignate provisions and conform the table of contents accordingly):

SEC. 305. SPECIAL RULE ON USE OF IRON AND STEEL PRODUCED IN THE UNITED STATES.

(a) IN GENERAL.—A local educational agency shall not obligate or expend funds received under this Act for a project for the modernization, renovation, or repair of public school facility unless all of the iron and steel used in such project is produced in the United States.

(b) EXCEPTIONS.—The provisions of subsection (a) shall not apply in any case in which the local educational agency finds that—

(1) their application would be inconsistent with the public interest;

(2) iron and steel are not produced in the United States in sufficient and reasonably available quantities and of a satisfactory quality;

(3) inclusion of iron and steel produced in the United States will increase the cost of the overall project contract by more than 25 percent.

6. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE BRADY OF TEXAS, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 10, line 3, after “**Mississippi**,” insert “**Texas**,”.

Page 10, line 15, after “Mississippi,” insert “Texas,”.

7. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE MATHESON OF UTAH, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 15, line 18, strike “and”.

Page 15, after line 18, insert the following (and redesignate provisions accordingly):

(C) if flooring was installed, whether—

(i) it was low- or no-VOC (Volatile Organic Compounds) flooring;

(ii) it was made from sustainable materials; and

(iii) use of flooring described in clause (i) or (ii) was cost-effective; and

8. AN AMENDMENT TO BE OFFERED BY REPRESENTATIVE REICHERT OF WASHINGTON, OR HIS DESIGNEE, DEBATABLE FOR 10 MINUTES

Page 9, line 18, strike “or”.

Page 9, line 19, strike “and” and insert “or”.

Page 9, after line 19, insert the following new subparagraph:

(D) reduce class size; and